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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20541

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE  
SECRETARY

IN REPLY REFER TO

Donald L. Pevsner, Esquire  
7280 Southwest 134 Terrace  
Miami, Florida 33156

Dear Mr. Pevsner:

This is in response to the petition for rulemaking you filed recently. The petition requested that the Commission adopt a rule requiring all interstate long-distance carriers to bill all customers on a per-second basis rather than on a per-minute or per-six second basis. It also asked the Commission to decide whether it is permissible for carriers to charge a higher rate for the first minute of connection time than is charged for additional minutes.

Because the rule changes you request appear unlikely to benefit consumers, we dismiss your petition for rulemaking without prejudice pursuant to section 1.401(e) of the Commission's Rules.<sup>1</sup>

We believe it is unlikely that the rule changes you seek will reduce consumer phone bills. If per-second billing were required, interstate long-distance carriers would almost certainly react by setting their per-second rates at a level designed to recover the revenues that were generated by the previous rates.<sup>2</sup> Because the revenues generated under the current billing practices are permissible, it is unlikely that

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<sup>1</sup> "Petitions which . . . plainly do not warrant consideration by the Commission may be denied or dismissed without prejudice to the petitioner." 47 C.F.R. § 1.401(e).

<sup>2</sup> Under the present system, carriers collect a certain level of revenue from calls terminating within a particular minute. For example, calls between 1 minute and 1 second, and 2 minutes would be charged as 2-minute calls and would produce a certain level of revenue. Assuming an even distribution of calls terminating in that minute, and assuming carriers were required to bill on a per-second basis, the total price for calls terminating in the first 30 seconds of any minute would likely decrease, while the total price of calls terminating in the last 30 seconds of any minute would increase.

Donald L. Fevner, Esquire

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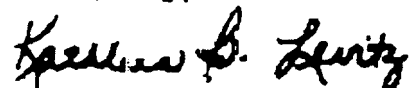
the Commission would object to new rates designed to maintain the current level of revenues. For example, for AT&T, the Commission uses price cap regulation to ensure that rates for residential services are just and reasonable. Under price caps, AT&T's rates are generally deemed permissible so long as they fall within the upper and lower rate boundaries for each category of services -- one of which includes AT&T services for residential and small business customers. The absolute revenue level generated by AT&T's residential services is in compliance with the Commission's price cap rules. Thus, even if AT&T were to bill on a per-second basis, it would most likely adjust its rate structure to produce the same level of revenues. The new rates would still fall within the acceptable range under price cap regulation, and residential customers would not experience a decrease in their long-distance bills.

Moreover, the Commission has not generally undertaken the prescription of telephone industry billing procedures. Numerous providers compete for the long-distance business of both residential and business customers. The billing practices of carriers vary -- some already offer sub-minute or per-second billing options, while others offer bulk rate options under which call length is irrelevant. Thus, carriers compete in terms of their billing practices, and customers are free to select a carrier that offers the most desirable billing options. If the Commission were to mandate a particular billing procedure, it would eliminate this form of service competition.

We conclude that the public interest is better served by our continuing to devote our limited resources to proceedings with a greater potential to produce substantial consumer benefits than the rulemaking you have requested.

Accordingly, we are returning your petition for rulemaking.

Sincerely,



Kathleen B. Levitz  
Acting Chief  
Common Carrier Bureau

Enclosure

**B**

-CELLULAR RADIO TELECOMMUNICATIONS SERVICE TARIFF-

VII. PRICE/PAYMENT (Continued)

not be excused from its payment obligations on the basis that fraudulent use occurred.

VIII. MINIMUM OBLIGATION OF RESELLER

CRS will be provided to Reseller by Company in increments of twenty-five (25) Access Numbers. Reseller will, regardless of actual usage, pay monthly access charges and minimum Airtime Usage charges per Access Number, from the date subscribed to, as set forth in the Agreement. Additionally, Reseller shall agree to subscribe initially to each such set of Access Numbers for the minimum period set forth in the Agreement, which shall in no event be less than six (6) months.

IX. TIMING OF CALLS

- A. Customer is charged for Airtime Usage both when calls are originated and when calls are received on mobile radio units being served by Company.
1. Chargeable time for calls originated by a cellular mobile radio unit begins when a connection is established if the called party answers, and ends when the cellular mobile radio unit disconnects. If called number does not answer, there generally is no charge.
  2. Chargeable time for calls received by a cellular mobile radio unit begins when the call is answered by the cellular mobile radio unit, and ends when the cellular mobile radio unit disconnects.

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Issued: March 2, 1993

Effective: March 3, 1993

AWACS, INC.  
480 East Swedesford Road  
Wayne, Pennsylvania 19087

-CELLULAR RADIO TELECOMMUNICATIONS SERVICE TARIFF-

IX. TIMING OF CALLS (Continued)

3. Incomplete calls originated by a mobile radio unit, up to no less than thirty (30) seconds, shall not be billed. Such incomplete calls may be billed if connection to the Cellular System is more than thirty (30) seconds in length.
- B. Usage for each call is billed in one (1) minute increments, subject to a minimum charge equivalent to usage of one (1) minute. Calls ending in a fraction of one minute will be rounded up to a full minute for billing purposes.
- C. When a connection is established in one rate period and ends in another, the rate in effect for each period applies to the portion of the connection occurring within each rate period. Calls for a duration of less than thirty (30) seconds in the originating rate period will be billed at the originating period rate for a thirty (30) second increment.

X. DEPOSITS & DELINQUENT CHARGES

- A. Company may, in order to safeguard its interests, require an applicant or existing Customer to make a suitable deposit, to be held by it as a guarantee of the payment of charges, and/or request an advance payment. Various forms of financial guarantee such as, but not limited to, letters of credit will be considered when establishing deposit requirements. Upon discontinuance of CRS, the deposit will be credited to Customer's account and any credit balance will be refunded after all amounts due Company have been paid.

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Issued: March 2, 1993

Effective: March 3, 1993

AWACS, INC.  
480 East Swedesford Road  
Wayne, Pennsylvania 19087

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CELLULAR RADIO TELECOMMUNICATIONS SERVICE

3. RATES AND CHARGES (cont.)

3.1 Timing of Calls

- A. Customers are charged for usage when they originate and when they receive calls on their mobile radio unit.

(1) Call timing for traffic originated by a Mobile Subscriber Unit starts when the call is answered by the called number and ends when the Mobile Subscriber Unit signals call disconnect to the MTSO.

(2) Call timing for traffic received by a Customer starts when the Mobile Subscriber Unit answers the call and ends when the Mobile Subscriber Unit signals call disconnect to the MTSO.

- B. The minimum usage charge on each call is one minute except as provided for in the Dispatch Package. Each fraction of a minute is rounded up to the next full minute for billing purposes.

- C. Calls which originate in one rate period and terminate in another will be billed at the rate in effect at call initiation for the first minute(or fraction thereof), and at the rate in effect for the duration of the connection for each additional minute thereafter.

3.2 Rate Periods of Usage

Applicable rates are based on the time of day and day of week as follows:

A. Peak Period

- (1) 8AM-8PM Monday through Friday.

- (2) The peak period for the following holidays is charged off peak period rates:

New Year's Day (January 1)  
President's Day (3rd Monday in February)  
Independence Day (July 4)  
Labor Day  
Thanksgiving Day  
Christmas Day (December 25)

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WASHINGTON, D.C.

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Issued: January 3, 1985

Effective: January 4, 1985

By: Rogers Radiocall, Inc. dba Cellular One  
Brian McTernan - General Manager  
840 E. State Parkway  
Schaumburg, IL 60195





CERTIFICATE OF SERVICE

I, Patrick J. Grant, an attorney in the law firm of Arnold & Porter, hereby certify that on this 12th day of November 1997, copies of the foregoing Petition of Southwestern Bell Mobile Systems, Inc. For A Declaratory Ruling were delivered by hand to:

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